IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE
CIVIL APPLICATION NO. 2334 OF 2007
IN
WRIT PETITION NO. 5489 OF 2007

Raosaheb Namdeo Patil .... Petitioner

versus

Vyayasinha Krishnarao Deshmukh & ors... Respondent.

Mr. A.M.Fatangare h/f Hanumant G. Wakshe for the petitioner.
Shri Sandesh D.Patil for Respondent no.1
Shri Ashok T. Gade for Respondents 6,7 & 10,
Shri Machindra Shingade for Respondents 8 & 12.

CORAM; A.P. DESHPANDE, J.
DATED; 07TH SEPTEMBER, 2007

P.C.;

1. By the present application, the petitioners have objected to the recording of concession made available by the advocate while passing of the order dated 22-8-2007. Para 2 of the order mentions "Learned counsel for the petitioner though agreeable for holding of election submits that the question of membership need to be decided before hand and the said exercise be not left to the person who would be directed to conduct the election". By the present application, the petitioner submits that the advocate had not consented for holding of the election and thus a prayer has made for expunging of the said sentence which goes to record the consent of the advocate. The

learned counsel for the respondent had opposed the application by submitting that the advocate for the petitioner had so consented and that the order was passed in the open court. Without going into the said controversy as to whether infact such a concession was given or not by the advocate in my opinion, the said sentence need to be deleted from the order in the interest of justice and for avoiding any embracement to the counsel, the application is thus allowed. Delete the sentence beginning from line no.4 of para 2 viz. "Learned counsel for the petitioner though agreeable for holding of election submits that the question of membership need to be decided before hand and the said exercise be not left to the person who would be directed to conduct the election" and at its place substitute "Learned counsel for the petitioner submits that if this court proceeds to direct holding of fresh election, then at least the question of membership should be decided before hand".

3. The learned counsel makes a further prayer that by order dated 22-9-1007 the impugned order has not been specifically quashed. In the result in the last but 4th lane of the order, before Rule made absolute the following sentence be inserted. "Impugned order is quashed and set aside. C.A. accordingly disposed of."

...